

Application No. 10/539,344

**REMARKS**

Claims 34, 36-42, 44, 45, 47-64 and 67-71 are pending in this application. By this Amendment, claims 34, 42, 44, 45, 47-49, 53, 54 and 56 are amended, claims 35, 43, 46, 65 and 66 are canceled and claims 67-71 are added. The amendments to claim 34 are supported by original claims 35, 43 and 46, as well as page 4, lines 16-20 of the specification, for example. Added claim 67 is supported by original claim 34 and original claim 55, for example. Added claim 68 is supported by page 18, lines 19-20, for example. Added claim 69 is supported by original claims 34, 43, 50, 53 and 54, for example. Added claim 70 is supported by page 13, lines 1-6, for example. Added claim 71 is supported by page 12, lines 21-26, for example. No new matter is added. Reconsideration of the application in view of the above amendments and the following remarks is respectfully requested.

The Office Action objects to claim 39 regarding the term "licence." Claim 39 is amended, as suggested by the Office Action, to obviate the objection. Withdrawal of the objection to claim 39 is requested.

The Office Action rejects claim 49 under 35 U.S.C. §112, second paragraph, as allegedly being indefinite. Claim 49 is amended to overcome the rejection. Withdrawal of the rejection of claim 49 under 35 U.S.C. §112, second paragraph, is respectfully requested.

The Office Action rejects claims 34, 36-38, 40, 41, 43-46, 53 and 54 under 35 U.S.C. §102(b) over U.S. Patent No. 5,949,352 to Ferrari; rejects claims 35, 39, 42, 47-49, 52, 55, 56, 61, 62, 65 and 66 under 35 U.S.C. §103(a) over Ferrari in view of U.S. Patent Application Publication No. 2002/0071478 to Cornwall; rejects claims 50 and 51 under 35 U.S.C. §103(a) over Ferrari in view of U.S. Patent No. 6,657,552 to Belski; rejects claim 57 under 35 U.S.C. §103(a) over Ferrari in view of Cornwall in view of Belski; rejects claims 58 and 59 under 35 U.S.C. §103(a) over Ferrari in view of U.S. Patent No. 6,405,136 to Li; and rejects claims

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60, 63 and 64 under 35 U.S.C. §103(a) over Ferrari in view of U.S. Patent Application Publication No. 2002/0175805 to Armstrong. The rejections are respectfully traversed.

Accurate timing of the operations of wireless communications in a measurement system is important for the utility of the device, as explained in pages 1-3 of Applicants' specification. The currently amended independent claims recite non-obvious features that provide the benefits of accurate timing without the disadvantages of related systems, such as continuous transmission systems, as discussed below. The primary reference Ferrari discloses a continuous signal system that suffers from serious disadvantages, including excessive usage of battery power, as detailed on page 3, lines 14-26 of Applicants' specification. Thus, the claimed subject matter proceeds contrary to the accepted wisdom of the applied references and provides a solution to a disadvantage of the applied references, which demonstrates non-obviousness (MPEP §2145 (X.D.3)). Further, even if the remaining applied references disclose non-continuous transmission systems, the Office Action (as well as the references) does not provide any explanation or guidance for how one of ordinary skill in the art would have combined these mutually contradictory systems to achieve an operable device, as discussed below.

Claim 34 is amended based on the subject matter previously recited in claim 46. In rejecting claim 46, the Office Action asserts that Ferrari discloses that the information includes data relating to the time of the measurement event (citing col. 4, lines 18-21 and 52-57). The Office Action's assertion is incorrect for at least the following reasons.

Ferrari discloses a system that increases or decreases a bit period (e.g., T1, T2) to ensure that the time  $\tau$  that elapses between the moment when the probe changes state and the end of the message is held constant (col. 5, lines 4-8). That is, Ferrari uses the end of a coded message to define a point in time that is delayed relative to the measurement event by a fixed delay. Ferrari does not, however, disclose that information relating to the measurement event transmitted by the first station includes data relating to a time of the measurement event, as recited in claim 34.

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Further, one of ordinary skill in the art at the time of the invention would not have regarded it to have been obvious to combine the teachings in Ferrari and Cornwall for at least the following reasons. Ferrari discloses continuously transmitting an FM signal between the measurement probe and the receiver. In contrast, Cornwall discloses a frequency hopping system (paragraph [0002]) that transmits information in a non-continuous manner. Thus, operations using the continuous and non-continuous (packet) signal transmission techniques taught by Ferrari and Cornwall, respectively, are mutually contradictory.

Added independent claim 67 recites that a master clock is provided at one end of the transmission system and a correlator is provided at the other end of the transmission system to recover the master clock. This feature is based on subject matter recited in claim 55, for example. In rejecting claim 55, the Office Action notes that Ferrari discloses, at Fig. 1 (element 17) a generator clock. The generator clock in Ferrari Fig. 1 is, however, only a generator for timing pulses sent by the programmable divider 16 to set a nominal bit period  $T_N$  (col. 4, lines 30-36). One of ordinary skill in the art at the time of the invention would not have reasonably considered the disclosure of the clock generator 17, which sets the timing for the divider 16, as corresponding to a master clock, as recited in claim 67. Further, the continuous transmission system of Ferrari is incompatible with the non-continuous transmission system of Cornwall, as discussed above. The Office Action provides no explanation or guidance for how any sliding correlator disclosed in Cornwall would have been combined with the clock generator 17 of Ferrari to achieve an operable device. MPEP §707 requires that, for rejections under 35 U.S.C. §103(a), the way in which a reference is modified or plural references are combined should be set out by the Patent Office. Thus, the Office Action fails to carry its burden of making a prima facie case of obviousness.

Added independent claim 69 recites a time delay between the measurement event and the production of the measurement device output signal, and further recites that the time delay is

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sufficiently long to allow the first station to retransmit the signal within the time delay. The applied references, individually or in combination, do not disclose, and would not have rendered obvious, these features. Further, to the extent that the Examiner may consider the rejection of claim 50 applicable to claim 69 (because claim 69 includes features based on subject matter recited in claim 50), Ferrari is not combinable with Belski for reasons similar to those regarding the combinability of Ferrari and Cornwall. In particular, any combination of the continuous transmission system in Ferrari with the non-continuous transmission system in Cornwall is likely inoperable, as explained above.

In view of the above, the applied references, individually or in combination, do not disclose, and would not have rendered obvious, the subject matter recited in independent claims 34, 67 and 69. Thus, the applied references, individually or in combination, do not disclose, and would not have rendered obvious, the subject matter recited in the remaining claims depending from these independent claims, for at least their respective dependence on an allowable base claim, as well as for the separately patentable subject matter that each of these claims recites.

Accordingly, withdrawal of the rejections of claims 34, 36-42, 44, 45 and 47-64 is respectfully requested.

In view of the foregoing, it is respectfully submitted that this application is in condition for allowance. Favorable consideration and prompt allowance of the pending claims are earnestly solicited.

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Should the Examiner believe that anything further would be desirable in order to place this application in even better condition for allowance, the Examiner is invited to contact the undersigned at the telephone number set forth below.

Respectfully submitted,

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Attachment:  
Petition for Extension of Time

Date: March 5, 2009

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